



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 10**

1200 Sixth Avenue, Suite 155  
Seattle, WA 98101

SUPERFUND &  
EMERGENCY  
MANAGEMENT DIVISION

Aug 18, 2021

Matt Gladney  
Vice-President Development  
Bridge Industrial  
10655 4<sup>th</sup> Avenue, Suite 210  
Bellevue, Washington 98034

Re: Bridge Industrial's Purchase and Development of 150 acres of Burlington Northern/Santa Fe Railway Company property, South 56<sup>th</sup> Street and Burlington Way South, South Tacoma Field Superfund Site, Tacoma, Washington

Dear Matt Gladney:

I am writing in response to your inquiry to the U.S. Environmental Protection Agency concerning the property referenced above (Property). In your inquiry, you described your intentions to purchase and develop the Property for warehousing and distribution of commercial and/or industrial goods (the Development). You have also requested a Superfund comfort/status letter from the EPA. The purpose of this comfort/status letter is to provide you with information EPA has about the Property and potentially applicable federal Superfund statutory and regulatory provisions and Agency policies, as of the date of this letter. I hope the information in this letter enables you to make informed decisions as you move forward with the Development.

Under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA, commonly referred to as Superfund), EPA's mission is to protect human health and the environment from the risks posed by contaminated or potentially contaminated lands. In doing so, it is the Agency's priority to return lands to productive reuse. EPA is issuing this letter consistent with EPA's current guidance.

### **Property Status**

Information on sites that are potentially hazardous and may warrant action under Superfund, including site-specific documents and fact sheets, is recorded by EPA in the Superfund Enterprise Management System (SEMS), which may be accessed at <http://cumulis.epa.gov/supercpad/cursites/srchsites.cfm>. SEMS is a public access database that contains non-enforcement confidential information about sites where there has been some EPA involvement under Superfund.

The Property is located within an Operable Unit of the Commencement Bay, South Tacoma Channel Superfund Site (CB/STC) in Tacoma, Washington. The CB/STC Superfund Site was listed on the National Priorities List in 1983. The Operable Unit where the Property is located is referred to as the South Tacoma Field Superfund Site (Site). Because the Property is located within a Superfund Site, and because as described below, hazardous substances remain at the Site, the EPA has and continues to address the Site under its Superfund authority.

## History and Status of the Site

The following is a summary of the information EPA currently has regarding the Site. More information regarding the Site is available through SEMS. You may also wish to view a copy of the Site's Administrative Record Site File, which is available at EPA, Region 10's Superfund Record Center. Contact information for the Region's Superfund Record Center is available at <https://www.epa.gov/aboutepa/forms/contact-epas-region-10-office-seattle>.

The Site is a 260-acre area historically used by the Burlington Northern Railroad Company (BNSF) for rail car manufacturing, repair, and maintenance activities from 1892 to 1974. Two foundries also operated at the Site. These foundries produced rail car parts. Tacoma City Light has operated a facility on the northern end of the Site. Additional industrial facilities operated on the southeast portion of the Site.

A CERCLA remedial investigation and feasibility study for the Site was performed between 1990 and 1994. In 1994, EPA issued a Record of Decision that selected cleanup actions for the Site. The cleanup actions included soil removal, soil capping, land use restrictions, and monitoring of natural processes to cleanup groundwater. These cleanup actions were implemented by several CERCLA potentially responsible parties pursuant to a consent decree approved by the United States District Court for the Western District of Washington in 1997. In 1999, EPA issued an Explanation of Significant Differences to change the groundwater cleanup action to monitored natural attenuation. Implementation of the selected cleanup actions did not result in the removal of all contaminated soils at the Site. The areas where contaminated soils remain on Site were capped to prevent future human exposure to the remaining contamination. The capped areas are subject to future use restrictions which prohibit uses that may damage or impair the effectiveness of the caps in preventing exposure to the underlying contaminated soils. The Property includes an area where soils containing hazardous substances were capped. This area is subject to the described use restrictions. The use restrictions were included in an Environmental Protection Restrictive Covenant and Access Easement that was filed with the Pierce County Recorder's Office. In 2005, the soils unit portion of the Site was partially deleted from the Site.

At this time, and with the exception of performing statutorily required five-year reviews pursuant to 42 U.S.C. § 9621(c), EPA does not anticipate taking additional Superfund investigatory, cleanup, and enforcement actions at the Site, unless new information warranting further Superfund response action or conditions not previously known to EPA regarding the Site are discovered.

## Reuse of the Property

Based on the information<sup>1</sup> provided in your request, EPA understands that Bridge Industrial will purchase 150 acres of the area within the Site owned by BNSF and intends to use the Property for warehousing and distributing commercial or industrial goods. The EPA understands the Development may include light manufacturing operations, and that maintenance shops or truck washing facilities are not contemplated uses. EPA understands that the Development would include constructing more than one large building and paving or otherwise hardscaping most of the Property. The paved areas would be used to park trucks and trailers. EPA also understands that construction of the Development will result

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<sup>1</sup> This information includes the information representatives of Bridge Industrial provided to EPA orally, in emails and in two documents. The documents include a draft Work Plan for Pre-Development Soil Characterization, dated April 19, 2021, and a draft Soil Management Plan for Redevelopment, dated July 16, 2021. EPA provided comments on both documents. This letter assumes that EPA comments are appropriately incorporated.

in all contaminated soils located on the Property being capped under the buildings and paved/hardscaped areas. It is important to note that any development should be compatible with the previously described implemented EPA cleanup actions and existing property use restrictions. For example, a party should not conduct any activities or construct any structures that would interfere with the EPA's investigation or cleanup or violate any restrictive land covenants. Based on the facts presently known to EPA, the Agency has not identified any obvious incompatibility between the proposed use of the Property and the cleanup remedy. As your plans develop further, you should continue to discuss the Development with EPA, as well as consult with your own legal counsel and environmental professional.

### **CERCLA's Bona Fide Prospective Purchaser Liability Protection**

CERCLA was amended in 2002 to allow certain parties who purchase contaminated or potentially contaminated properties to buy such properties and to avoid potential CERCLA liability if they qualify as a "bona fide prospective purchaser" (BFPP). The BFPP provision provides that a person meeting the criteria of CERCLA §§ 101(40) and 107(r)(1) and who purchases after January 11, 2002, will not be liable as an owner under CERCLA. The BFPP provision is designed to be self-implementing, meaning the purchaser is responsible for achieving and maintaining BFPP status.

To assist the purchaser and their legal counsel, EPA has issued guidance regarding some of the criteria landowners must meet to qualify for the BFPP protections under CERCLA. See *Interim Guidance Regarding Criteria Landowners Must Meet in Order to Qualify for Bona Fide Prospective Purchaser, Contiguous Property Owner, or Innocent Landowner Limitations on CERCLA Liability (Common Elements)* (Mar. 6, 2003) (Common Elements Guidance) <https://www.epa.gov/sites/default/files/2019-08/documents/common-elements-guide-mem-2019.pdf>, and see,

<https://www.epa.gov/enforcement/common-elements-and-other-landowner-liability-guidance>.

CERCLA requires a party to perform "all appropriate inquiries" prior to acquiring real property. There are other BFPP requirements such as providing certain notices, taking "reasonable steps," providing cooperation, assistance, and access, and complying with institutional controls. Please note that there are additional criteria addressed in CERCLA §§101(40) and 107(r)(1) that a landowner must meet to qualify as a BFPP under CERCLA. You and your legal counsel will need to assess whether you satisfy each of the statutory requirements necessary to achieve BFPP status and continue to meet the applicable criteria.

As noted above, EPA oversaw the performance of CERCLA remedial actions on the Property. These actions covered contaminated soils with protective barriers that prevent human exposure to underlying contaminated soils. Based on the information EPA has evaluated to date, EPA believes that the following would be appropriate reasonable steps related to the hazardous substance contamination found at the Site:

- Continued maintenance of caps that prevent human exposure to contaminated soils;
- Compliance with the above-described Environmental Protection Restrictive Covenant and Access Easement; and
- Cooperation with EPA's actions to monitor the effectiveness of remedial actions undertaken at the Site.

Any reasonable steps suggested by EPA are based on the nature and extent of contamination known to EPA at this time and are provided solely for informational purposes. If additional information regarding the nature and extent of hazardous substance contamination at the Site and/or Property becomes available, additional actions may be necessary to satisfy the "reasonable steps" criterion. You should

ensure that you are aware of the condition of the Property so that you are able to take reasonable steps with respect to any hazardous substance contamination. If new areas of contamination are identified, you should ensure that reasonable steps are undertaken to address the release or potential release of such contamination.

## State Actions

EPA is only providing you with information regarding EPA's Superfund actions at the Site and federal law and guidance. You should contact the Washington State Department of Ecology for more information about potential state actions and liability issues.

## Conclusion

EPA generally issues Superfund comfort/status letters to facilitate the cleanup and reuse of contaminated or formerly contaminated properties. This comfort/status letter is intended to help you make informed decisions by providing you with the Superfund information that EPA has about the Property and by identifying the CERCLA statutory protections, guidance, resources, and tools that may be potentially available for the Property.


This letter is not intended to limit or affect EPA's authority under CERCLA or any other law or to provide a release from CERCLA liability. EPA encourages you to consult with legal counsel, an environmental professional, and the appropriate state, tribal, or local environmental protection agency before taking any action to acquire, clean up, or reuse potentially contaminated property. It is your responsibility to ensure that the proposed use of the Property complies with any federal, state, local, and/or tribal laws or requirements that may apply.

EPA supports appropriate reuse of contaminated properties and hopes the information in this letter is useful to you. If you have any additional questions or wish to discuss this information further, please feel free to contact Piper Peterson, Remedial Project Manager, at [peterston.piper@epa.gov](mailto:peterston.piper@epa.gov) or (206) 553-4951 or Ted Yackulic, Assistant Regional Counsel, at [yackulic.ted@epa.gov](mailto:yackulic.ted@epa.gov) or (206) 553-1218. Ms. Peterson and Mr. Yackulic are assigned to work on CERCLA matters related to the South Tacoma Field Superfund Site.

Sincerely,

**KIRA  
LYNCH**

Kira Lynch  
Branch Chief  
Remedial Cleanup Branch

 Digitally signed by  
KIRA LYNCH  
Date: 2021.08.18  
17:53:25 -07'00'

cc: Elisabeth Freed, EPA OSRE  
Pamela Daugherty, EPA OSRE  
Victor Zertuche, EPA OSRE